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EXAMINER

PHAN, JOSEPH T

ART UNIT	PAPER NUMBER
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2614

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/692,850	Applicant(s) ELIAS, ERAN	
	Examiner JOSEPH T. PHAN	Art Unit 2614	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 September 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 3-30 and 32-44 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 3-30, and 32-44 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. This supplemental non-final action replaces non-final action mailed on 03/18/2009.

Applicant's arguments with respect to claims 1, 3-30, and 32-44 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1, 18, 30, 36 and 37 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 1 line 6, the phrase "so as to" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

Claim 1 line 6 recites the phrase "enable control thereof" which is unclear and confusing as it is not known if 'thereof' refers to the 'user client' in line 3, or the 'communication module' in line 4, or the 'communication device' in line 4 and makes the claim indefinite.

Regarding claim 18 line 4, the phrase "so as to" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

Claim 30 line 4 recites "to select said content" which is unclear if this is referring to the 'selected content' in line 2 or a different content.

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Claim 36 lines 1-2 recites “said content is video” which is unclear and confusing as in the parent claim, the selected content is already ‘voicemail greeting’ and makes the claim indefinite. The phrase ‘the Push-to-Show protocol’ is also unclear as it lacks antecedent basis and the specification does not support/enable how this specific(Push-to-Show capitalized) protocol is used to support video. Appropriate clarification and/or correction is required.

Claim 37 lines 4-5 recites “...said media content, and using said received data to select, from said received media content, a content item...” is unclear and confusing due to incorrect usage of comma grammar. Since these lines recite multiple commas, it is not known what portion ‘from said received media content’ relates to.

Appropriate clarification and/or correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 4-30, and 32-35, and 37-44 rejected under 35 U.S.C. 102(e) as being anticipated by Rautila et al., Patent #6,631,183.

Regarding claim 1, Rautila teaches a user client for a communication device, said user client being able to assume a number of different states(Fig.3), said communication device operable to communicate with a remotely located media based network service(102/105 Fig.1),

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the user client comprising: a communication module for causing said communication device to communicate information representing a currently assumed one of said states to a remotely located media based network service(col.2 lines 8-21) so as to enable control thereof according to said currently assumed state; wherein the remotely located media based network service comprises a voicemail system(202 Fig.2, col.2 lines 8-21 and col.5 lines 10-65).

Regarding claim 4, Rautila teaches the user client of claim 2, wherein a plurality of prerecorded greetings are available for interoperation with said user client at said remotely located media based network service and wherein control of said remotely located media based network comprises selection of one of said greetings in accordance with the currently assumed state, and said control further comprising causing the selected greeting to be played back as a voicemail reply from said voicemail system to a calling party(Fig.1, col.2 lines 8-21 and col.5 lines 10-65).

Regarding claim 5, Rautila teaches the user client of claim 4, wherein said communication module comprises a data messaging protocol(Fig.1 and col.3 lines 15-50).

Regarding claim 6, Rautila teaches the user client of claim 4, further comprising a module for presenting to a user, upon receipt of an incoming call, an ability to select one of said different states instead of answering said call(Fig.1 and 3, col.6 lines 2-49).

Regarding claim 7, Rautila teaches the user client of claim 6, wherein said communication module is configurable according to a selected one of said states to communicate said selected state to the voicemail system so as to cause said voicemail to select a greeting corresponding to the selected state(Fig.1 and 3, col.4 lines 54-67, and col.6 lines 2-49).

Regarding claim 8, Rautila teaches the user client of claim 6, wherein said module is

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configured such that said communication device is operable to present a plurality of different greetings for user selection therefrom, each state being associated with a different one of said greetings(Fig.1 and 3, col.2 lines 8-21, col.5 lines 10-65, and col.6 lines 2-49).

Regarding claim 9, Rautila teaches the user client of claim 4, wherein said user client is switchable substantially at any time between said states, and wherein said communication module is configured to communicate to said voicemail system an exchange of states so as to enable said voicemail system to select a voicemail greeting according to said current state(Fig.1 and 3, col.2 lines 8-21, col.5 lines 10-65, and col.6 lines 2-49).

Regarding claim 10, Rautila teaches the user client of claim 4, further comprising a user input for allowing a user to define at least one of said states and to associate a different greeting with each of said states(Fig.1 and 3, col.2 lines 8-21, col.5 lines 10-65, and col.6 lines 2-49).

Regarding claim 11, Rautila teaches the user client of claim 10, further comprising a user input for allowing a user to record a greeting for association with one of said states(Fig.1 and 3, col.5 lines 10-65, and col.6 lines 2-49).

Regarding claim 12, Rautila teaches the user client of claim 4, wherein one of said states is a real time recording mode enterable upon receipt of a call at said communication device, said user client further comprising a user interface for enabling a user to record in real time a new greeting upon receipt of said call(Fig.1, col.6 lines 20-40).

Regarding claim 13, Rautila teaches the user client of claim 12, wherein said real time recording mode is configured so as to carry out said recording of the new greeting whilst delaying forwarding of said call from said communication device to said voicemail system(Fig.1, col.6 lines 20-40).

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Regarding claim 14, Rautila teaches the user client of claim 12, wherein said real time recording mode is configured to forward said recorded greeting as at least one voice packet to said voicemail system for playing as said reply(Fig.1, col.6 lines 13-40; voice greeting is a voice packet).

Regarding claim 15, Rautila teaches the user client of claim 14, wherein said communication module is configured to communicate said voicemail greeting, together with control data for said voicemail system, using voice packets(Fig.1, col.6 lines 13-40).

Regarding claim 16, Rautila teaches the user client of claim 4, further comprising a user interface for allowing a user to select between (1) a menu of prerecorded voicemail greetings(Fig.1b and col.5 lines 10-40) and (2) recording a new voicemail greeting(col.6 lines 20-40).

Regarding claim 17, Rautila teaches the user client of claim 4, wherein said communication device is a mobile communication device(Fig.1 and 4, col.6 lines 50-67).

Regarding claim 18, Rautila teaches a communication device comprising a user client, said user client being operable to configure said communication device into any one of a plurality of states and further to configure said communication device for communication with a remotely located voicemail system so as to apply settings to said voicemail system(Fig.1, col.4 lines 54-67 and col.5 lines 14-65).

Regarding claim 19, Rautila teaches the communication device of claim 18, wherein said applying settings comprises selection of a voicemail reply greeting by said remotely located voicemail system in accordance with a current state of said communication device(Fig.1, page 3 para 0028, 0031-0033, and page 5 para 0053 and 0061).

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Regarding claim 20, Rautila teaches the communication device of claim 18, further comprising a data messaging module for communicating with said remotely located voicemail system(Fig.1 and 3, col.2 lines 8-21, col.5 lines 10-65, and col.6 lines 2-49).

Regarding claim 21, Rautila teaches the communication device of claim 19, further comprising a communication module configured to communicate to said remote voicemail system any change in state at said communication device so as to control said voicemail system to provide a voicemail greeting according to said current state(Fig.1 and 3, col.2 lines 8-21, col.5 lines 10-65, and col.6 lines 2-49).

Regarding claim 22, Rautila teaches the communication device of claim 19, wherein said user client is configured into one of said plurality of states by the user selecting a predefined greeting from a menu of predefined greetings at said communication device(Fig.1 and 3, col.2 lines 8-21, col.5 lines 10-65, and col.6 lines 2-49).

Regarding claim 23, Rautila teaches the communication device of claim 19, wherein said user client is configured into one of said plurality of states by the user selecting between (1) a menu of predefined greetings(col.5 lines 10-40) and (2) recording of a new greeting(col.6 lines 20-40).

Regarding claim 24, Rautila teaches the communication device of claim 19, wherein one of said states is a real time recording state enterable upon receiving a call from a caller, and wherein said real time state permits a user to record a greeting in real time and to send said recorded greeting to said voicemail system for playback as the voicemail greeting to said caller(Fig.1 and 3, and col.6 lines 20-49).

Regarding claim 25, Rautila teaches the communication device of claim 24, wherein the

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device is operable to record the greeting in real time whilst delaying forwarding of said call from said communication device to said voicemail system(Fig.1 and 3, and col.6 lines 2-49).

Regarding claim 26, Rautila teaches the communication device of claim 24, wherein the device is operable to forward said recorded greeting as at least one voice packet, together with control data, to said voicemail system for playback as the voicemail reply(Fig.1 and 3, col.2 lines 8-21, col.5 lines 10-65, and col.6 lines 2-49).

Regarding claim 27, Rautila teaches the communication device of claim 18, wherein the communication device is a mobile communication device(Fig.1).

Regarding claim 28, Rautila teaches the communication device of claim 21, wherein said plurality of possible states comprises at least one user definable mode, said user client comprising a user interface for defining of said user definable mode(Fig.1 and 3 and col.5 lines 10-65).

Regarding claim 29, Rautila teaches the communication device of claim 21, wherein said plurality of possible states comprises at least one user selectable mode, said user client comprising a user interface for user selecting of said mode(Fig.1 and 3, col.2 lines 8-21, col.5 lines 10-65, and col.6 lines 2-49).

Regarding claim 30, Rautila teaches a server-based subscriber service system(Fig.1) comprising: an output unit for outputting selected content, and a content selection unit associated with said media output unit for using data representing a current state of a called party handset to select said content for output by said output unit and wherein the selected content is a voicemail greeting(Fig.1 and 3, col.2 lines 8-21, col.5 lines 10-65, and col.6 lines 2-65).

Regarding claim 32, Rautila teaches the server-based subscriber service system of claim

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30, further comprising a data communication unit associated with said content selection unit for receiving state data from said called party handset from which to determine said current state(Fig.1 and 3, col.2 lines 8-21, col.5 lines 10-65, and col.6 lines 2-65).

Regarding claim 33, Rautila teaches the server-based subscriber service system of claim 30, wherein said current state is a real time record state, and further comprising a module operable to receive a real time recorded item for immediate output as said selected item(Fig.1, col.6 lines 2-65).

Regarding claim 34, Rautila teaches the server-based subscriber service system of claim 32, wherein said communication unit is operable to receive said state data in at least one of SMS format and USSD format(Fig.1, col.2 lines 30-33, and col.3 lines 15-50).

Regarding claim 35, Rautila teaches the server-based subscriber service system of claim 32, wherein said data communication unit is operable to use the push-to-talk protocol to enable receipt of said content together with said state data(Fig.1 and col.6 lines 50-65).

Regarding claim 37, Rautila teaches a method of providing remote control to a server-based subscriber service comprising: using a media channel to receive media content for use in said subscriber service, using a data channel to receive data concerning said media content, and using said received data to select, from said received media content, a content item for use in said subscriber service (Fig.1 and 3, col.2 lines 8-21, col.5 lines 10-65, and col.6 lines 2-65).

Regarding claim 38, Rautila teaches the method of claim 37, wherein said received data comprises data received with said media content and data received subsequent to said media content(Fig.1 and 3, col.2 lines 8-21, col.5 lines 10-65, and col.6 lines 2-65).

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Regarding claim 39, Rautila teaches a handset and server based greeting system comprising: a user handset(Fig.1), and a server based greeting system located remotely from said handset over a communication network(102/105 Fig.1), wherein said server based greeting system comprises: a memory for storing a plurality of greetings associated with a given user handset(Fig.4); and; a selector for selecting one of said greetings as a current greeting for playing to a rejected call forwarded from said handset; and wherein said handset comprises a message communication module for communicating to said server based greeting system an indicator for instructing said selector to select a given greeting as said current greeting(Fig.1 and 4, col.2 lines 8-21, col.5 lines 10-65, and col.6 lines 2-65).

Regarding claim 40, Rautila teaches the handset and server based greeting system of claim 39, wherein said message communication module is further configured to communicate to said server based greeting system an indicator to accept a greeting presently being recorded at said handset as said current message(Fig.1 and 3, col.2 lines 8-21, col.5 lines 10-65, and col.6 lines 2-65).

Regarding claim 41, Rautila teaches a handset and server based greeting system comprising: a user handset(Fig. 4), and a server based greeting system located remotely from said handset over a communication network(Fig.1), and wherein said server based greeting system comprises a memory for storing at least one greeting associated with a given user handset(Fig.4). and wherein said handset comprises a message communication module for communicating to said server based greeting system: a rejection of a current incoming call and an indicator for instructing said selector to select a

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greeting presently being recorded at said handset as said current message, thereby to allow a realtime recorded greeting to be played as a voicemail greeting to said current incoming call(col.2 lines 8-21, col.5 lines 10-65, and col.6 lines 2-65).

Regarding claim 42, Rautila teaches a user client and server based greeting system comprising: a user client(Fig.1) for a user handset(Fig.4), and said server based greeting system located remotely from said handset over a communication network(Fig.1) wherein said server based greeting system comprises:

a memory for storing a plurality of greetings associated with a given user handset (Fig.4) and; a selector for selecting one of said greetings as a current greeting for playing to a rejected call forwarded from said handset; and wherein said user client comprises a message communication module for communicating to said server based greeting system an indicator for instructing said selector to select a given greeting as said current greeting(Fig.1 and 3, col.2 lines 8-21, col.5 lines 10-65, and col.6 lines 2-65).

Regarding claim 43, Rautila teaches the user client and server based greeting system of claim 42, wherein said message communication module is further configured to communicate to said server based greeting system an indicator to accept a greeting presently being recorded at said handset as said current message(Fig.1, col.2 lines 8-21, col.5 lines 10-65, and col.6 lines 2-65).

Regarding claim 44, Rautila teaches a user client and server based greeting system comprising: a user client for a user handset(Fig.4), and a server based greeting system located remotely from said handset over a communication network, and wherein said server based greeting system comprises a memory for storing at least one greeting associated with a given

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user handset and wherein said user client comprises a message communication module for communicating to said server based greeting system(Fig.1):

a rejection of a current incoming call and an indicator for instructing said selector to select a greeting presently being recorded at said handset as said current message, thereby to allow a realtime recorded greeting to be played as a voicemail greeting to said current incoming call(Fig.1 and 3, col.2 lines 8-21, col.5 lines 10-65, and col.6 lines 2-65).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 3 and 36 rejected under 35 U.S.C. 103(a) as being unpatentable over Rautila et al., Patent #6,631,183 in view of Osann, Jr. Patent #7,092,735.

Regarding claims 3 and 36, Rautila discloses a remotely located media based network service and subscriber server system of claim 32 (102/105 Fig.1).

Rautila does not expressly disclose that the service comprises video.

In a related field of endeavor (i.e. using mobile phones to relay messages), Osann, Jr discloses video (Fig.1 and col.2 lines 42-49).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify the Rautila media-based(voicemail) network service to include video as taught by Osann, Jr.

One of ordinary skill in the art would have been motivated to do so, as mobile phones

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were old and well-known at the time the invention was made to be handle video as taught by Osann, Jr and including video in Rautila voicemail system would further add to the enjoyment of the mobile phones capability. Additionally, since playing video on a mobile device was notoriously well known at the time of the invention as taught by Osann, Jr it would have been obvious to try including it in Rautila's network service.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOSEPH T. PHAN whose telephone number is (571)272-7544. The examiner can normally be reached on Mon-Fri 9am-6:30pm EST, off every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Curtis Kuntz can be reached on (571) 272-7499. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Joseph T Phan/

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Examiner, Art Unit 2614